

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2004-235-C - ORDER NO. 2004-493
OCTOBER 13, 2004

IN RE: Application of Winstar Communications,)	ORDER APPROVING
LLC for Authority to Discontinue Frame)	DISCONTINUATION OF
Relay and Private Line Services in the State)	CERTAIN SERVICES
of South Carolina.)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of an Application by Winstar Communications, LLC (“Winstar” or the “Company”) requesting authority to discontinue certain services in South Carolina and requests expedited treatment. Specifically, Winstar requests that the Commission allow it to discontinue the provision of frame relay and other high-speed data transmission services to non-federal governmental customers located primarily in the Charleston and Greenville areas of South Carolina on August 31, 2004, or as soon thereafter as the necessary state and federal regulatory authorizations have been obtained. The Application was filed pursuant to S.C. Code Ann. Section 58-9-300 (Supp. 2003) and the applicable regulations of the Commission.

Winstar was granted authority to provide local and interexchange telecommunications throughout South Carolina pursuant to the Commission’s Order No. 2002-236 in Docket No. 2002-11-C on March 29, 2002. Winstar does not seek to surrender its certificate at this time and intends to continue to offer service to the

Company's federal government customers, its fixed wireless services and offerings supporting mobile carrier infrastructures, cable, Wi-Fi and other backhaul systems, private circuits, closed networks, and its spectrum lease offerings in South Carolina.

The Commission's Executive Director instructed the Company to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of the Company's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. Winstar additionally mailed notice of this Application to all of its South Carolina customers on June 15, 2004, June 18, 2004, and June 30, 2004. No Petitions to Intervene or Protests were filed in this matter.

REQUEST FOR EXPEDITED REVIEW

Upon consideration of Winstar's request for expedited review, the Commission finds that expedited review should be granted. By its request, Winstar waives its right to a formal hearing. The Commission finds that notice of the Application was properly afforded to the public. The Commission finds that procedural due process was afforded in this matter and further finds that the Applicant made a knowing waiver of a formal hearing. Therefore, the Commission will consider the Application in the context of its regularly scheduled weekly meeting, with court reporter present, and for purposes of the expedited review, the Commission will deem the examination of the Application during

the course of the Commission's regularly scheduled meeting with court reporter present as a hearing on this matter.

DESCRIPTION OF DISCONTINUANCE OF SERVICE

According to Winstar, the Company has determined to discontinue the provision of frame relay and other high-speed data transmission services in South Carolina as a part of the Company's plan to refocus its business plan in order to maintain long term profitability. This discontinuation will not affect Winstar's federal government customers, Winstar's fixed wireless services and offerings supporting mobile carrier infrastructures, cable, Wi-Fi and other backhaul systems, private circuits, closed networks, or Winstar's spectrum lease offerings. The customers affected by such discontinuance are located primarily in the Charleston and Greenville areas of South Carolina, and according to Winstar, this discontinuance of service will affect approximately 5 customers.

Winstar attaches to its Application, as Exhibits A, B, and C, copies of the notifications of discontinuance provided to its customers. Winstar states that the customer notice letters were prepared in accordance with the requirements of Section 63.71(a) of the Federal Communications Commission's Rules. For affected customers receiving frame relay services within WiTel Communications, LLC's ("WiTel") service areas, Winstar included with its notice of discontinuance an informational letter, price quote, and sample contract from WiTel. For affected customers receiving frame relay services that are not within WiTel's service areas and for the one affected customer receiving high-speed data transmission services, Winstar included with its notice of discontinuance

information advising the customers of the necessity to find a new provider. Winstar advises that it will work with the customers' chosen carriers to effectuate a seamless transition of the affected customers to the new carriers' networks.

As to the public interest consideration, Winstar asserts that its discontinuation of the services, as described, will not adversely impact the public convenience and necessity nor will the public be unduly harmed by the discontinuance since Winstar has given notice to its affected customers which affords them an opportunity to transfer to a new carrier. Further, Winstar states that the Company is making a concerted effort to ensure an orderly transition for all of its affected customers.

FINDINGS OF FACT

1. Winstar has been granted authority by this Commission to provide local and interexchange telecommunications throughout South Carolina pursuant to the Commission's Order No. 2002-236 in Docket No. 2002-11-C on March 29, 2002.

2. Winstar has applied to this Commission to discontinue the provision of certain services to its non-federal governmental customers located primarily in the Charleston and Greenville areas of South Carolina. The services which Winstar seeks to discontinue include frame relay and other high-speed data transmission services to commercial customers. This discontinuance will affect approximately 5 customers of Winstar in South Carolina.

3. Winstar has provided the Commission with proof of such filing and of notification to the affected customers and has sought to provide its affected customers with an alternate telecommunications provider to ensure continuity of service.

4. Proper notification of the Application for the Commission's approval of the Application was published by Winstar and no interested parties filed to protest or to intervene in this matter.

CONCLUSIONS OF LAW

1. Winstar's Application to discontinue certain services in South Carolina is granted on the basis of the aforestated facts and under the authority of 26 S.C. Code Regs.103-820.

2. Based on the above Findings of Fact, the Commission concludes that Winstar is authorized to discontinue certain services as requested by the Company in its Application.

3. The Company shall otherwise continue to operate in compliance with the Order of this Commission in Order No. 2003-236 in Docket No. 2002-11-C and is directed to comply with all Rules and Regulations of the Commission, unless a regulation was specifically waived by the Commission in the aforementioned Order or is specifically requested by application.

IT IS THERFORE ORDERED THAT:

1. Winstar is hereby authorized to discontinue the provision of certain services provided to non-federal governmental customers in the Charleston and Greenville areas of South Carolina.

2. Winstar is further authorized to discontinue the provision of frame relay and other high-speed data transmission services to commercial customers in South Carolina.

3. Winstar's federal government customers, fixed wireless services and offerings supporting mobile carrier infrastructures, cable, Wi-Fi and other backhaul systems, private circuits, closed networks and spectrum lease offerings in South Carolina are unaffected by this Order.

4. Winstar shall continue its efforts to provide for the continuity of service to its customers affected by this Order.

5. Winstar shall continue to comply with the those requirements provided in Commission Order No. 2002-236 in Docket No. 2002-11-C unaffected by this Order.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
G. O'Neal Hamilton, Vice Chairman

(SEAL)